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REVIEW

OF A

PAMPHLET ON THE TRUST DEED

OF THE

HANOVER CHURCH.

Boston

REVIEW

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HANOVER CHURCH.

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REVIEW.

The Recent Attempt to defeat the Constitutional Provisions in favor of Religious Freedom, considered in reference to the Trust Conveyances of Hanover Street Church. By a Layman. Boston. Wells and Lilly. 1828.

THERE are several circumstances which have attended the writing and publishing of this pamphlet, of a character highly gratifying and encouraging to the friends of evangelical religion in Boston and throughout the country.

The establishment of Churches on the plan so warmly opposed by the author, was adopted by the Orthodox Congregationalists in Boston in 1809. In that year the Park Street Church in this city was formed, its meeting-house erected, and the fee of the land on which it stands was conveyed to several individuals in trust for the church, with provisions in reference to the settlement of pastors and the rights of pew-holders, in all respects similar to those of the Hanover Street Church, to which the writer of this pamphlet particularly refers. In 1822 the Union Church, occupying the meeting-house in Essex Street, was organized, and the fee of the land conveyed to trustees upon similar trusts. In 1824 the Evangelical Congregational Church in South Boston was gathered, the meeting-house in which it worships erected, and the fee of the land conveyed in the same manner. The organization of these churches, and the manner in which the fee of the land occupied by their meeting-houses was held, was no secret. The conditions on which the pews were to be held were, in each case, distinctly proclaimed at the time of sale, and the deeds of pews given to purchasers explicitly stated these conditions. These facts and circumstances were generally known through the city, and were sometimes animadverted upon by the opposers, and in a few instances by the supporters, of Orthodox opinions. But, during all this time, no book, or pamphlet, or com-

munication in the public prints, on the subject, made its appearance; no public opposition was made to these proceedings. Why was this? If the tendency of this system is so manifestly subversive of "religious freedom," as our author asserts that it is, why was it not, at its very commencement, exposed and crushed? If this writer had then, (which we will not question,) the same zeal which he tells us he now has, for defending our inestimable rights "of civil and religious freedom," why did he not step forth in defence of those rights the very instant they began to be invaded, and overwhelm at once, by his powerful weapons, the ruthless authors of the outrage? Why did he suffer them to entrench themselves, and increase the number of their positions, and multiply their means of attack? Was he unapprised of their proceedings, though open as day? Then the sentinel of liberty was asleep upon his post, and would do well to speak now with a little more modesty of his zeal in the sacred cause. But he could not have been unapprised of their proceedings. There was another reason for his inaction. The Unitarians had quiet possession of the, then, most powerful University in the land, and were devoting all its means of influence to the maintenance and extension of their cause; they were enabled to make the political influence of the State directly and powerfully subservient to their views; they had nearly all the wealth and, as they thought, nearly all the talent and learning and influence, of the metropolis in their hands, and were, as they supposed, acquiring more and more of these means of moral influence in various parts of the country; and what did they care for the little band of humble advocates of Orthodox opinions in Boston? What if they had established two Congregational churches in the compact part of the city, in addition to the solitary one which had not abandoned the faith of our fathers, and had attempted to establish a religious society among the feeble population of South Boston? They could effect nothing. Unitarian influence was secure. And the sacred "principles of our civil and religious freedom" might take care of themselves.

But there had been all the while a moral influence operating in Boston, of which the leaders of Unitarianism had no suspicion. At length it had acquired a degree of strength, and its effects burst upon their view in a manner, which filled them with astonishment and alarm. In 1825 the Hanover Church was formed, and its meeting-house erected, and a pastor settled. The house and land had cost $40,000. The fee was vested in the same manner, and the pews were to be sold on the same conditions, as in the Park Street and Essex Street Churches. These conditions were made known when the pews of the Hanover Street Church were offered for sale, and the sales, on that day, and during a few succeeding weeks, were nearly sufficient to cover the expense of the land and house. A large congregation was immediately gathered, to a con-

siderable extent from Unitarian societies. In a few months another meeting-house was erected in Green Street, and occupied by an Orthodox church and pastor. And, what is far more important, and to the opposers of evangelical religion far more appalling, the Spirit of God was poured out in great power upon the Orthodox Congregational and the Baptist Churches in Boston and in several of the neighboring towns. Great additions were made to all these churches. New Orthodox societies were formed in places in the vicinity which had been almost exclusively occupied by the Unitarians, and feeble Orthodox churches were greatly strengthened. And in the city, within two years after the erection of Hanover Street Church, one new Baptist and two additional Orthodox Congregational meeting-houses had been built, and churches organized to occupy them. There was beginning to be, moreover, a very general disposition manifested among those who belonged to Unitarian societies to attend on occasional Orthodox preaching. And they began to find that their ministers had grossly deceived them in the representations they had given them of Orthodox opinions. The sentiments they heard stated and defended from Orthodox pulpits they found were rational and scriptural. And, as a matter of course, they began to be dissatisfied with the ministrations which had so presumptuously imposed upon their confidence, and to think favorably of Orthodox doctrines and Orthodox preaching. Persons of respectability and influence, and families belonging to the most substantial portion of the population, and numbers of young men of character and promise, were leaving the Unitarian and joining the Orthodox congregations. The new Baptist Church promised to be speedily filled; and, judging from the experience of the past two years and from the general state of feeling in the city, there was great reason to fear, that the two new Orthodox Churches, would also collect, without delay, flourishing congregations. And should it be so, there would be little prospect of arresting the progress of Orthodox sentiments throughout the city, and of course, through every part of the Commonwealth where the opposite principles had obtained an ascendancy. Public sentiment, already setting strongly against the sectarian management of the University by the Unitarians, would soon wrest from them that powerful instrument in promoting their cause. The reign of misnamed liberal opinions would soon be at an end. Something must, then, be done. A desperate effort must be made, to prevent, if possible, the success of these two new churches. How shall this effort be made? The subscriptions by which the new churches had been built stipulated that the fee of the houses and land should be vested in the same manner, and the pews sold on the same conditions, as in the Hanover Street Church. This provision it was thought, upon mature deliberation, presented the most favorable point of attack upon the new churches. This feature in the organization

of the new societies it was supposed could, at least, more easily than any other, be made unpopular with those members of Unitarian congregations who might be disposed to purchase pews in the new houses, inasmuch as they had been brought up to entertain very low ideas of the importance and privileges of churches. Here then it was determined to make the attack, and the work was assigned to the honorable author of this pamphlet. And now his love of liberty begins to burn. His zeal for "the rights of civil and religious freedom" rises, and bursts forth, tempest like, in the publication and industrious circulation of the pamphlet under review.

Now we appeal to every candid observer of the operation of moral causes, and ask, whether the publication of this pamphlet does not furnish decisive evidence that the leaders of Unitarianism in this city, are alarmed at the progress and influence which a gracious God is giving to evangelical opinions.

Again. The pamphlet before us was evidently written under the influence of a highly excited feeling of anger. Its pages are filled with bitterness and invective against the advocates of evangelical opinions. As specimens of the spirit in which it was composed, take the following quotations.

"The extraordinary attempt," by these trust conveyances, "to bind to all future generations, the descendants of several thousand people in this city, and to effect by forms of law what *the inventors feel conscious they could not produce by eloquence or the force of truth.*" p. 3. "Such is the history, and the unvarnished history of Christianity. The laity sunk into slaves—slaves of the basest sort—mental slaves—not daring to think—even deeming it a crime to think. * * * *Yet it is true, as I believe, that this degradation of the human mind is considered justifiable, in Boston, in the nineteenth century. Such at least are my own views of the legal instruments invented and devised for Hanover Street Church.*"—p. 4. "Since the recent revival," by "a minority of the Christian church calling themselves by way of eminence the Orthodox—the Evangelical," "of *a spirit of intolerance which has had no example, from the banishment of Roger Williams, and the murder of Servetus, and the persecution of the followers of Arminius.*" p. 9. "The Orthodox party have resorted to a novel method of restraining religious liberty. As the courts of law had fixed on immutable foundations, the rights of the people, they have resorted to the *artifices* of legal conveyancing *for the avowed purpose of restraining the freedom of thought on the most important of all subjects.* The device was this; certain persons, *assured that divine truths cannot possibly be better understood in future ages, than they now are by themselves, or than they were two hundred years ago by the Westminster Assembly in England,* have purchased land, and built churches, and granted pews, *on condition of perpetual servitude and submission.*" "A more complete case, *of moral and religious slavery has never been known, we will not say in this age, but since the times of Cardinal Wolsey, or of Stephen Gardiner, of burning and persecuting memory.*" p. 10. "This very extraor-

dinary document, *is an attempt to substitute legal covenants and contrivances in the place of the old and shorter process, (we may even say the* FAIRER *process, because there was no disguise about it,) the sharp sword of the soldier and the unanswerable argument of fire and fagot.*" "The principles," he says, which is acted upon by his "Protestant brethren," the Orthodox, "of Boston, in the nineteenth century," "is *precisely the same*," as that acted upon by "Lewis XIV. when he wished to repress the free opinions of our Protestant brethren, the Huguenots, and mildly and humanely banished them from his dominions." The only difference is that "the *modern ecclesiastical tyranny* has been compelled to modify its penalties by the spirit of the age." "Would it be ungenerous," he continues, "to presume that *nothing but the want of power has produced the comparative moderation of the enlightened founders of Hanover Street Church?*" p. 13. "We should give Dr. Beecher credit, (*if we could with integrity,*) for this outpouring of a natural feeling of justice and love of religious freedom, if we had not before us the decisive proofs that *it was mere profession.*" "*We are truly sickened at heart with such professions,* when contrasted with *the despotic provisions* contained in the indentures of trust which we have just recited." p. 15. "*Do these gentlemen deny that Christians who are not of the Church have any souls?*" "You have done a work of gratuitous and supererogatory restriction—*of wanton and uncalled for violence to the rights of conscience.*" "Are we to infer that this is the true Orthodox spirit? that they are not satisfied with necessary powers, all that are requisite for the cause of religion, but *they must have the entire submission of the soul?*" "If the Orthodox party had now the civil power in their hands, for which they have shown of late a great hankering, they would give to all the other churches in the State the same exclusive power which they have bestowed on *this creature of their intolerance.* Nay, more; we have a right to infer that *they would not permit a man to vote in civil concerns unless he was a church member.*" p. 17. The organization of the Hanover Street Church and Congregation, he says, is "somewhat analagous" to that of "a little monastery" which once "existed in one of the southern provinces of France, whose lands were granted on a singular tenure,—whoever bought or took a lease of them became by that act, ipso facto, they and their posterity, bondmen and bondwomen of the monks. *That was physical slavery; this is mental submission.* There is this difference in favor of the Hanover Street title, that you may sell your property, and get rid of *your servitude*, if you can find a *purchaser so humbled and bowed down under theological influence and prejudices* as to accept a title *which declares him incapable of judging for himself* as to the principles, character, manners and talents of his religious teachers." p. 18. "The title to their very edifice is vested absolutely in brethren in sister churches! *Sister spies*, rather, who are to watch over the opinions and measures of this society." p. 20. "If Messrs. Tappan and Walley had no moral and equitable right to impose such conditions, I should be pleased to know whence they derived their commission to settle upon unborn generations, a creed agreed to, many generations ago, and with many misgivings, in an age *run mad with metaphysical subtleties?*" "We fear that the highest authority which they can cite for such *an intermeddling with the con-*

sciences of future generations, will be found to be *the New England Vatican.*" "My right to examine into, and criticise the conduct of the Orthodox party, is as great, and as fair, as the right of the Orthodox clergy, at all times, in public and private, in the pulpit and through the press, to speak of my religious creed, and of my religious friends and teachers with scorn and contempt—to deny them the Christian character, and to endeavor to bring upon them the aversion and distrust of the less informed classes of society ;—*but I despise and disavow such motives of action,*" i. e. such motives as he attributes to the Orthodox. p. 24.

These sentences, and more of a similar character, were written and published, by a man of the high pretences to courtesy and good breeding of the author of this pamphlet ; by a man who avows himself to be a LIBERAL Christian, and a lover and exemplifier of that CHARITY which "suffereth long, and is kind," which "vaunteth not itself, is not puffed up, doth not behave itself unseemly, is not easily provoked, thinketh no evil" ! What a passion he must have been in during the whole time of his writing and revising and carrying through the press this production ! But are men ever angry because of prosperity ? Do they fret and rave and deal in unfounded imputations and hard names and abusive epithets, when their favorite schemes are advancing to a sure and speedy accomplishment ? Who that is accustomed to watch, with an intelligent observation, the indications of party feeling, does not see, in the temper exhibited by our author, unequivocal symptoms of a consciousness of a declining cause ?

We remark as an additional source of congratulation and encouragement to the friends of evangelical religion, that this pamphlet is calculated to promote a spirit of inquiry. It has been applauded in the newspapers, and no little activity has been employed in its circulation.

We regard any occurrence calculated to promote in the community a spirit of inquiry as a cause of encouragement and congratulation, because evangelical sentiments always prevail most rapidly and take the strongest hold on the understandings and consciences and hearts of men, when subjected to the most faithful scrutiny. Especially do we thus regard every occurrence calculated to excite and extend such a spirit among the Unitarians. So palpable have been the misrepresentations of Orthodox opinions and Orthodox proceedings which have been made from Unitarian pulpits and in Unitarian publications ; so gross has been the perversions of the funds consecrated, in the University, by the liberality and piety of our fathers, "to Christ and his Church ;" so directly have political measures in certain instances, and a particular class of judicial decisions, in this Commonwealth, been made to bear upon the advancement of Unitarianism ; so contradictory are the opinions and reasonings which have been, from time to time, ad-

vanced by Unitarian writers and preachers; so inconsistent with right reason and with the Scriptures are the doctrines of Unitarianism as now held in this country; that nothing is wanting but a general prevalence among Unitarians of earnest, impartial, thorough, prayerful inquiry, to withdraw from the leaders of the party the confidence, not only of this intelligent community, but also of the large proportion of high minded and candid and truly liberal men now found in their ranks, and cause them to return to the faith of their fathers, the system of truth which is to emancipate and save the world. So cold and powerless are the doctrines of Unitarianism that they cannot long retain their hold upon the understanding, where there is, from some other cause, enkindled in the heart a glowing and active zeal. The "palace of ice," to which the system of "Liberal Christianity" has been likened with as much truth as beauty of illustration, is, doubtless, "a splendid and imposing fabric, glittering with an artificial radiance, till it seems

> Another moon new ris'n, or meteor fall'n
> From heaven to earth;—

but, with all its imposing splendor, and with all its enticing radiance, cold, irremediably cold. A fire may be kindled indeed to warm the chilled and freezing inmates; but the moment it begins to glow, the fabric which it warms begins to perish; and, ere the genial atmosphere of life and comfort has been created, the palace, with its magnificence, has vanished."* We say therefore to the leaders of the Unitarian party, in the language of sober conviction, that the foundations of our anticipations lie deep in the principles of human nature. Go on, preaching, and writing, and publishing, undisguisedly and fearlessly, about doctrines, and their tendency, and the tests of Christian character, and the existence and rights of churches, and the opinions and proceedings of the Orthodox;—throw all the spirit and energy you can into your productions;—employ, without remission, your utmost efforts to awaken the attention of your followers, and direct it intently, to these great subjects;—call forth, in every way you can, their activity and zeal;—increase your demands on their contributions and in circulating your publications;—redouble your efforts for the establishment of a foreign mission;—build new churches, to echo ere long, as certainly as that God's truth shall triumph, with the glad sound of evangelical doctrines.—Go on,—we repeat it,—and succeed in rousing and sustaining the dormant energies of your brethren. In all your exertions and in all your success we shall, in the sense explained, rejoice; for we are *assured* that, though you mean it not, you will be preparing the way for a most extensive and glorious triumph of the truth.

Another source of encouragement and congratulation for the

* Christian Spectator for 1825, p. 655.

advocates of evangelical sentiments is furnished, we think, in the authorship of this pamphlet. It is written by "A Layman," the same who published a while since "The Rights of the Congregational Parishes of Massachusetts." Tradition relates that in a time of strong political excitement in this vicinity, it was remarked in reference to a certain individual (we will not *say* whether it was the same who wrote these pamphlets) by the party which he opposed, 'Now we are sure to succeed, for **** ****** has commenced writing against us.' So, we are persuaded, the Orthodox may now say in reference to our author. The grounds of this persuasion will be fully developed in the progress of this review. If the Unitarians continue to publish on religious controversy, we hope they will give us as much from this writer as he can possibly furnish.

We now proceed to notice more particularly the pamphlet itself which we have undertaken to review.

It is written by a descendant of the Pilgrims, one who *says*, "No man living has a higher respect than I have for our sincere and pious ancestors." p. 7. And now attend to the utterance which he has given of this respect.

"*Our ancestors were only half converted to free principles.*" "*They were not imbued with the true spirit of Christian liberty; they had no correct ideas of the fundamental principles of Protestantism. As soon as they were quietly settled in this country, they adopted principles as despotic as those of the Church of Rome.*" *They* "*had no just ideas of civil and religious liberty.*"

And can it be that these sentences were written by an inhabitant of Massachusetts, and a son of the Pilgrims; by one who avows that "no man living has a higher respect for our ancestors" than he? Yes, reader, we blush to say it, they did proceed from such a source. And does he believe what he has written? Then he believes that the splendid discourse of Webster, delivered at Plymouth, December 22, 1820, was but a *tissue* of unfounded declamation, for it is all based upon the supposition that our ancestors brought to these shores and left to us their descendants as a rich inheritance all the great principles of "public and private virtue" and "of civil and religious liberty," "whatever advances human knowledge, or improves human happiness."* He does not believe that Everett spoke the truth when, on the 22d of December, 1824, he said, on the same spot, of the "chosen company of pilgrims" whose principles and virtues he was commemorating, "They were actuated by the most powerful springs of improvement in all their strength, and, with the dust of their feet, had shaken off the antiquated abuses and false principles which had been accumulating for thousands of years," and that in them "religious reform

* Page 8. Fourth Edition.

had reached its last perfection."* But this writer thinks, "our ancestors were only half converted to free principles! They were not imbued with the true spirit of Christian liberty! They had no correct ideas of the fundamental principles of Protestantism! They had no just ideas of civil and religious liberty"!!! What can be more certain than that, among the enlightened and grateful descendants of the Pilgrims, the man who entertains and dares to utter such sentiments will, if he have any influence, promote the cause he aims to subvert?

Again. All reasoning, to produce conviction in intelligent minds, must be based on accurate statements of facts and premises. Of the truth and importance of this abstract principle our author seems, from a remark, p. 8, respecting the writer of the Result of a late Ecclesiastical Council at Groton, to have been aware. Yet such was the heat in which he wrote this production that nearly all his statements of facts and premises are erroneous.

He is wholly mistaken as to the origin of the conveyances in trust against which he inveighs with so much warmth. He considers them an invention of the Orthodox *clergy*. They are, he says p. 1, "an ingenious attempt of the *clergy* of the Orthodox party of Massachusetts."—Now the truth is, (and we speak from knowledge,) this expedient for preserving to the church the unalienable right, given to her by the Lord Jesus Christ, of choosing her own pastors, was first adopted by a Congregational church in Boston, the Park Street Church, at the sole instance of the laymen who formed that church. The Orthodox clergy of Massachusetts had no concern whatever, directly or indirectly, in its adoption. Of the only two Orthodox Congregational ministers then in Boston, the Pastors of the Old South Church, one was opposed to it, and the other is not known to have expressed an opinion on the subject. And from that time to the present, every Orthodox Congregational minister settled in Boston has, at least, doubted, not of the justice, but the expediency of the plan. These doubts they have expressed to their brethren of the laity. But the laymen engaged in the enterprise of building new churches, have generally been of a different opinion. And in their views the ministers have cheerfully acquiesced.

The author says, pp. 1, 2, that "during the apostolic age and the two which immediately followed it, freedom of thought and entire equality, were felt, acknowledged, and in practice admitted," i. e. no person who professed himself a Christian, was censured, or debarred from the privileges of church membership, on account of his religious opinions, or for any other reason; and there was "an entire equality among the clerical and lay brethren, and the enjoyment of equal privileges." Has he, then, read his Bible so

* Pages 27, 24.

little that he does not know that the ministry was an office in the church, from the beginning, involving peculiar duties, and thus invested with peculiar privileges? Did he never read the censure passed upon those "who concerning the truth had errred, and overthrew the faith of some"? Did he never see the apostolic direction to excommunicate "a heretic after the first and second admonition"? Did he never experience any risings of apprehension when he read the curse, pronounced and solemnly repeated by Paul, upon those who teach "another gospel"? Does he not know that those whom the apostles considered and addressed as church members, were, in all cases, persons who gave credible evidence of being "saints;" by which, every faithful reader of the New Testament knows, is meant, sanctified persons, those who have been "renewed" by the Holy Ghost and are "led by the Spirit"? He has himself referred, p. 4, to the well known fact that in the early ages of Christianity, catechumens were not admitted to the privileges of church membership. And who were the catechumens? They were (substantially what the congregations connected with Orthodox churches now are) the children of believing parents and *those who had outwardly renounced Heathenism and embraced Christianity, but did not, as yet, give sufficient evidence of religious knowledge and of piety to be admitted to the church.* Here then, according to his own testimony, were Christians, in the looser sense of the term and in the only sense in which he uses it, who were not church members.

He states, p. 5. that "the Scriptures, as Christianity spread into the west of Europe were, as to these nations, enveloped in a foreign language." That is, if the sentence has any meaning, the first Christians in the west of Europe, who used the Latin language, had the Scriptures only in the Greek or in the Hebrew and Greek.—We will inform our author that "the Latin Church possessed a very great number of versions of the Scriptures, *made at the very first introduction of Christianity;* one of which appears to have acquired a more extensive circulation than the others, and, for several ages was preferably used, under the name of the *Itala*, or Old Italic, on account of its clearness and fidelity."*

He implies pp. 9, 10, that it is only during the last few years, since the commencement of an open controversy with the Unitarians in this country, that "a minority of the Christian Church," i. e. in distinction from Pagans, Mohammedans, &c. "calling themselves by way of eminence the Orthodox, the evangelical, the only true saints, have undertaken to deny the name and character of Christians to a large body of divines," viz. known Unitarians, and "have pronounced that the latter were unworthy of announcing gospel truths from their more hallowed pulpits."—Now every

* Horne's Introduction, vol. ii. p. 196.

one the least acquainted with ecclesiastical history knows that, from the first introduction of Unitarianism by Arius in the fourth century, the great body of the Orthodox, and all decidedly evangelical churches and ministers and individuals, have not regarded, avowed, or known, Unitarians as Christians in the higher and proper sense of the term, and have declined holding with them ministerial and Christian communion. Should the Orthodox now receive known Unitarians as Christians, and admit them to their pulpits, they would introduce an innovation never before heard of in the Christian world.

Our author says, p. 13, that the trust deed of the Hanover Street Church is "the first document of the kind which has appeared since the Reformation."—The facts are that the house and land of each of the three Orthodox Congregational Churches in Boston, in Park Street, in Essex Street, and at South Boston, and of the Baptist Church in Charles Street, and of the Orthodox Congregational Churches at New Bedford and Fall River, and the Baptist Church at Roxbury, were all vested in this manner before, in some of the instances years before, the Hanover Street Church was built. And our author himself, with an inconsistency which in any other writer would have surprised us, remarks, p. 22, respecting the Huguenot Church formerly in School Street, "*That too had its private deeds of trust and uses, which I remember to have seen.*" Possibly our author might also inform us whether Mr. Belsham's church in London is not also protected by a trust deed.

Passing over, for the present, some material errors in statement, which, with the reasoning upon them, are spread over pp. 14—19, we find it stated, p. 20, that it was not a principle of the old Congregationalists of New England that an individual church should be under the supervision of its sister churches. For the *information* of our author on this point we will quote a passage from Chap. 15, Sect. 2, of the Cambridge Platform, agreed upon by the Synod of 1648, and unanimously approved by the Synod of 1679. "A third way of Communion of Churches is by way of *admonition, to wit*, in case any public offence be found in a church, which they discern not, or are slow in proceeding to use the means for the removing and healing of;———In which case, if the church that lieth under offence do not hearken to the church that doth admonish her, the church is to acquaint other neighbor churches with that offence which the offending church still lieth under, together with the neglect of their brotherly admonition given unto them. Whereupon those other churches are to join in seconding the admonition formerly given; and if still the offending church continue in obstinacy and impenitency, they may forbear communion with them, and are to proceed to make use of the help of a Synod, or Council of neighbor churches walking orderly (if greater cannot conveniently be had) for their conviction. If they hear not

the Synod, the Synod having declared them to be obstinate, particular churches, approving and accepting the judgment of the Synod, are to declare the sentence of non-communion respectively concerning them."

Again, on p. 22, to exhibit what he calls "the silent but sure progress of free inquiry," our author states, "In 1728, (one century ago,) there was probably not a Congregational minister who was not a Calvinist; perhaps some half a dozen individuals began to favor the Arminian doctrines in secret, and were called moderate Calvinists;—now, at the close of the century, probably one half of all the Congregational clergy reject the Calvinistic doctrines altogether, and nearly that number reject or doubt the holy Roman Catholic Athanasian Creed." But the record of accredited history respecting the Congregational clergy throughout New England "one century ago," is that "*many* of them, instead of clearly and powerfully preaching the doctrines of original sin, of regeneration, justification by faith alone, and the other peculiar doctrines of the Gospel, contented themselves with preaching a cold, unprincipled and lifeless morality;"* i. e. were what our author calls moderate Calvinists or secret favorers of Arminianism. And the *fact* "now, at the close of the century," is that less than one third of the Congregational clergy of Massachusetts are Unitarians, and in the other New England States this denomination has scarcely a place or a name.

These specimens are, we presume, sufficient to enable our readers to judge what confidence is to be reposed in our author's statements of facts and premises.

We proceed to an examination of what were regarded by the writer as the arguments of the pamphlet. And here, that the subject may be fully before our readers, we will insert the "extract from the Trust Deed" of the Hanover Street Church, as given in the pamphlet, with an addition from the deed itself.

"This Indenture, of three parts, made this 15th day of March, in the year of our Lord one thousand eight hundred and twenty-six, &c.

"*Whereas* a Church of Christ has been gathered, called the *Hanover Church*, the male members of which now in this city, are the parties of the third part hereof; *and whereas* it is intended, by the members of said Church, to maintain in the said House the public worship of God, under such Protestant Congregational or Presbyterian Minister of the Gospel of Christ, as the male members of said Church shall from time to time elect, independently and exclusively of such persons as may at any time form a part of the Congregation usually worshipping in said House, although such persons may be proprietors of Pews therein; to the end that by the blessing of Almighty God, a succession of holy persons may be elected Pastors of said Church, and the faithful preaching of Christ crucified, agreeably to the general

* Trumbull's History of Connecticut, vol. ii. chap. 8.

system of Doctrines expressed in the Westminster Assembly's Shorter Catechism, and in the Confession of Faith, owned and consented to by the Elders and Messengers of the Churches, assembled at Boston, May 12th, A. D. 1680, to be continued in the said house to the latest generations: *and whereas*, after deliberation, it has been thought advisable that the fee in said House and Land should be vested in and held by a number of persons, members of sister Orthodox Churches, in Trust for the said Church of Christ gathered as aforesaid, and for the more perfect protection thereof, according to human judgment.

"*To have and to hold*," *&c.* Then follows a covenant that they are free of incumbrances, &c.

"And it is hereby fully declared and expressly understood, that this sale and conveyance is made upon the trusts and for the purposes hereinafter expressed, and for no other use, intent or purpose whatsoever: *that is to say*, upon this special trust and confidence, that the said parties of the second part, the survivors of them, their assigns and the survivors of them, shall and do permit and suffer so much of the said House and Land, as is designed for Public Worship, at all times hereafter to be used, occupied and enjoyed, as and for a Meeting-House, or place for the Public, Protestant Religious Worship and Service of the One Living and True God, Father, Son and Holy Spirit, by the said Hanover Church, and such Society or Congregation as shall regularly attend Public Worship under the ministration of the Pastor or Pastors, who shall from time to time be elected by the male members of said Church; and shall suffer and permit such Protestant Congregational or Presbyterian Ministers of the Gospel as the male members of said Church shall from time to time elect and engage, and no others, statedly to preach and to perform religious exercises and services therein; and shall and will suffer and permit the Deacons, or a Committee of the said Church, to lease the remaining part of said House and Land, and to sell, demise and dispose of, or covenant and agree for, the having, holding and enjoying the pews or seats in said Meeting-House.

"And upon this further Trust, that they the said parties of the second part hereof, and the survivors, their assigns and the survivors of them, shall and will, from time to time, permit the Deacons of the said Church, or any Committee who shall be chosen by the male members thereof for that purpose, to ask, demand, sue for, recover, collect and receive all taxes, rents, issues and profits of said House and Land, and cellar under the same, and the same appropriate and pay over as the male members of the said Church, at a regular meeting by a major vote thereof, shall order and direct, and to account with, and be accountable therefor, to the said Church only: and also, from time to time, to make such alterations and repairs in and upon said House, as the male members of said Church shall judge to be necessary or expedient, but free from all expense to the parties of the second part hereof:—It being well understood that no proprietors of Pews, who are not members of the said Church, shall ever have a voice, or be allowed to take any part, or to act in the said business, or in the choice of a Pastor, either directly or indirectly, and that their title and right, interest and property, in their Pews, shall ever be subject to these incumbrances, restrictions and reservations: And also upon this further trust and

confidence, that as soon as the Trustees—that is to say, the parties of the second part hereof—shall by death be reduced to the number of seven, or at any time within eighteen months thereafter, that the surviving Trustees shall elect and appoint seven new Trustees, and shall make all such grants and conveyances to them as shall constitute such persons so elected, joint Tenants with the surviving Trustees aforesaid, and in all respects whatsoever co-trustees with them—and so on, from time to time, and as often as the Board of Trustees for the time being shall by death be reduced to the number of seven as aforesaid."

[*The remainder of this paragraph is the addition from the deed itself.*]

And the parties of the second part hereof, do solemnly hereby covenant, and as in the presence of God, severally grant and agree to and with the parties of the third part hereof, and the successive male members of the Hanover Church; and each of the said persons of the second part hereof, doth also for himself and his heirs, grant, covenant and agree, to and with the other persons of the second part hereof, and their heirs jointly, and with each of the said other persons of the said second part hereof and his heirs severally, that during the whole continuance of the trusts aforesaid, he and each of them will together hold the said Land and House in joint tenancy, and that neither one of them separately, nor any two or more of them jointly, will ever sue out any writ at common law for the partition and division of said premises, nor present any petition under the statute for the partition thereof, or demand and sue for partition thereof in any Court of Equity, or attempt the partition thereof in any other way whatsoever, or suffer or permit the same to be made; and that if partition should be attempted to be made by any one or more of the said persons, parties of the second part hereof, their associates and successors, then this covenant and agreement may be pleaded in bar thereto, by any one or more of the other persons parties of the second part hereof, or by any one or more of their associates and successors, or by the parties of the third part hereof, or by any or either of them, or by any person or persons who may hereafter become members of the Hanover Church, or by any other person or persons whomsoever that may be interested therein—so that this covenant, grant and agreement shall forever be an effectual bar to any partition of the said premises.

"*And lastly*, it is mutually understood and agreed, and again declared by all the parties hereunto, that the said House and Land are to, and shall, be holden by the said parties of the second part hereof, and their associates and successors to be chosen as aforesaid, upon the trusts and for the uses and purposes expressed and declared in this indenture, and for no other use, intent or purpose whatsoever."

Now what are our author's objections to the provisions of this instrument? They are four in number. The first of them is stated thus.

"This very extraordinary document, the first, we believe, of the kind which has appeared since the reformation, is an attempt to substitute *legal covenants and contrivances* in the place of the old and shorter process, (we may *even say the fairer* process, because there was no disguise about it) the sharp sword of the soldier and the unanswerable argument of fire and faggot. Lewis XIV, when he wished to repress the free opinions of our Protestant brethren, the

Huguenots, mildly and humanely banished them from his dominions. Our Protestant brethren of Boston, in the nineteenth century, are simply content with covenants and provisoes, clothed in legal language, by which the future heretick simply *agrees* to surrender his rights of conscience and of thought, on the pain and penalty of forfeiting his property in the Church. The principle is precisely the same; but it must in candor be admitted, that the modern ecclesiastical tyranny has been compelled to modify its penalties by the spirit of the age. Would it be ungenerous to presume, that nothing but the want of power has produced the comparative moderation of the enlightened founders of Hanover Street Church?" p. 13.

The only portion of this extract which bears the *least complexion* of an argument, is the position that trust deeds require, of the purchaser of a pew, when the fee is thus vested, "a surrender of his rights of conscience and of thought." Similar assertions are made in other parts of the pamphlet. He styles trust deeds, p. 1, an "attempt to bind all future generations, the descendants of several thousand people in this city" in respect to "the most valuable of their rights, the right of thought." He says, p. 10, that "the Orthodox party have resorted to the artifices of legal conveyancing for the avowed purpose of restraining the freedom of thought on the most important of all subjects;" they "have purchased land, and built churches, and granted pews, on condition of perpetual servitude and submission."—But *how* does this devise restrain the freedom of thought and entail perpetual servitude and submission? Certain persons, desirous of promoting the spread of evangelical sentiment and vital religion, employ a portion of *their own property* in purchasing land and erecting on it a meeting-house. They vest the fee of this land and house in trustees. The pews are offered for sale on the declared and known condition that the minister is, in all cases, to be elected by the church of Orthodox principles which has been gathered to occupy this meeting-house. Those who do not like these terms, or prefer not to attend Orthodox preaching, need not, and it may be presumed will not, purchase. And if any one who purchases should subsequently become dissatisfied with these terms or with the preaching, or if any of the descendants of any purchaser should become dissatisfied, he is at perfect liberty to go to any other meeting, and to sell his pew, just when he pleases. Now we ask, in the name of reason, how does this restrain the freedom of thought and entail perpetual servitude and submission? Our author has told us. He says, the purchaser on these terms "agrees to surrender his rights of conscience and of thought *on the pain and penalty of forfeiting his property in the Church*," i. e. of selling his pew. But how does this penalty take away the freedom of thought? There is but one way in which it can be imagined to have this influence; that is, upon the supposition that the community are so mercenary that those of

them who may purchase pews in these houses, and their descendants after them, will forego "the most valuable of their rights, the right of thought," rather than incur the hazard of some little loss of property by selling a pew! If our author feels that his cause needs the support of an argument grounded on such a supposition in regard to this community, he is welcome to it. We will say not another word with a design to take it from him.

The second argument of the pamphlet before us is thus stated.

"This novel mode of conveyancing is, not an indirect, but a palpable, plain, undisguised attempt to defeat the express provisions of our constitution, and the decisions of the highest courts of law within the State, upon the subject matter of these instruments. The constitution and decisions secure to all pewholders,* parishioners and others, who support the minister, the right of electing him. It is a natural and reasonable right, founded upon the principles of equality, and of civil and religious freedom, which no convention nor contract can weaken or destroy. He who supports a ruler, a teacher, or officer of any sort, ought to have the privilege of voting for him." p. 13. And p. 9, he says, "By the constitution of 1780, they,"—the people,—"swept away all the vestiges of monarchical and religious tyranny, and restored to the people the natural, and inalienable right of electing, ('exclusively,' they expressly declare,) their religious instructers." "The highest courts of law in this State were called upon successively in various cases to settle the true meaning of the constitution on this point, and they have confirmed the rights, the exclusive rights of the members, of all the members of towns, parishes, precincts, and religious societies, to elect their pastors without any control, let, hindrance, or impediment on the part of the associations technically called 'churches,' in the narrowest, and, in my judgment, anti-christian, and anti-apostolical sense of the term."

In reply to this argument we affirm, and undertake to prove, that, *in the sense intended* in these extracts the constitution does *not* give to all pewholders and members of towns, parishes, precincts and religious societies the *exclusive* right to elect their pastors, without any control, let, hindrance or impediment. The reader will observe we say, the constitution does not give this right *in the sense intended* by this writer. There is a sense in which it does, unquestionably, give to towns and parishes this right, viz. in such a sense as leaves to churches the unalienable right, which they have derived from the Lord Jesus Christ, of choosing their own pastors, and as does not interfere with the peculiar ecclesiastical organization and discipline of any religious denomination. The church and the town or parish, let it be carefully noted, though they be, to a greater or less extent, composed of the same individuals, are DISTINCT BODIES. The one is an ecclesiastical body,

* The constitution does not mention pewholders; the terms used in the clause referred to are "towns, parishes, precincts, and other bodies politic or religious societies."

the other is a civil body. The one originates in the institution of Christ, independently of any provisions and enactments of civil government; the other derives its existence solely from the constitution and laws of the State. Now our doctrine is, (and we beg that the statement may be attended to, and remembered,) that THE CHURCH HAS AN EXCLUSIVE RIGHT TO CHOOSE ITS OWN PASTOR, AND THE TOWN OR PARISH HAS AN EXCLUSIVE RIGHT TO CHOOSE ITS OWN TEACHER OR MINISTER. The church has a right to choose its own pastor; for it is a voluntary association for religious purposes, and what voluntary association for any lawful purpose was ever denied the right of electing its own officers? And the town or parish has a right to choose its own teacher or minister; for this right is given to it by the constitution. These two rights are independent of each other; and neither body can, lawfully, interfere with the right of the other, but with its consent. The church has no right to choose a minister for the parish without its consent, and the parish has no right to choose a pastor for the church without its consent. The church and parish may, indeed, enter into an agreement, express or implied, that the pastor of the church and the minister of the parish shall be the same person, chosen by a concurrent vote. Or the parish may agree to wave the exercise of its right, virtually saying to the church, 'We will accept as our minister the person whom you shall elect your pastor.' But, independently of any such compact, express or implied, the right of choice is complete and independent in each body.* The church and the parish may also, separately or in concurrence, bind themselves to be governed in the choice and settlement of the pastor and minister by the regulations of any denomination of christians with which they may choose to be connected; and none can lawfully prevent the application to them of those regulations. These remarks, we trust, are sufficient to render apparent our meaning, when we say that, in our view, the constitution does give to towns and parishes the right of choosing their own ministers, in such a sense as leaves to the churches the unalienable right of choosing their own pastors, and as does not interfere with the peculiar ecclesiastical organization and discipline of any religious denomination.

But this is not the sense in which the writer of the pamphlet under review claims for towns and parishes the right of choosing their own ministers. He claims it in such a sense as wholly denies to the churches the right of choosing their own pastors, and gives to the town or parish the right of imposing a pastor on the church, even against its will, and in whatever ecclesiastical form the town or parish may choose. Now we assert, and we undertake to

*If the distinction here pointed out were carefully observed, much of the obscurity and perplexity which seems to attend the views of some on the important subject of the rights of churches and parishes, would be done away.

prove, that the constitution gives to towns and parishes no such right. Our proof is contained in the following arguments.

1. The Congregational churches have, almost universally, before and since the adoption of the constitution in 1780, exercised the right of choosing their pastors, in concurrence with the towns and parishes in the choice of their ministers. And this practice is commended and its continuance advised by our highest judicial authority. Says the Hon. Judge Sedgwick, (Avery vs. Tyringham,) "The mode of settling ministers has continued in every respect the same since the establishment of the constitution that it was before. The church call the minister; the town, at a legal meeting, concur in the invitation, and vote the salary; and the minister, after solemn consideration, accepts the invitation."* And C. J. Parsons, in the same case, referring to these ancient usages, says, "They so manifestly tend to the preservation of good order, peace and harmony among the people, in the exercise of their religious privileges, it may be presumed that *a departure from them will never be admitted* by any town but in cases of necessity."† C. J. Parker, speaking on the same subject says, "We agree with him," (C. J. Parsons,) "in *estimating highly these ancient usages*, protected as the people are by the constitutional provision, and in *hoping that they may be observed in future*, as they have been in past times."‡ Here we have the constituted guardians and expositors of the constitution commending and advising the continuance of the practice of the churches choosing their pastors, in concurrence with the towns or parishes choosing their ministers. Would they have done this if such a practice was inconsistent with and repugnant to the constitution?

2. Numerous acts have been passed by the Legislature, since the adoption of the constitution, which recognize a right in some other than the members of towns and parishes to have a voice in the choice of a minister.

The constitution of the *Presbyterian Church* in the United States provides that in "the election of a Pastor for a particular congregation, *no person shall be entitled to vote who refuses to submit to the censures of the church, regularly administered;* or who does not contribute his just proportion, according to his own engagements or the rules of that congregation, to all its necessary expenses." "The call," when prepared in the manner prescribed, "*shall be presented to the Presbytery* under whose care the person shall be; that, *if the Presbytery think it expedient to present the call to him*, it may be accordingly presented; and *no minister or candidate shall receive a call but through the hands of the Presbytery.* If the call be to the licentiate of another Presbytery, in that case the commissioners deputed from the congregation to

* Term Reports, vol. iii. pp. 171, 173.

† Ibid, p. 180.

‡ Term Reports, vol. xvi. p. 510.

prosecute the call, shall produce to that judicatory, a certificate from their own Presbytery, regularly attested by the moderator and clerk, *that the call has been laid before them*, and that it is in order."* These regulations, the reader perceives, may, in some cases, prevent members of the parish who contribute to the support of the Pastor from voting in his election, and in all cases give a negative on the choice of the congregation to the Presbytery. Yet our Legislature have, since the adoption of the Constitution, incorporated *Presbyterian* congregations; which, of course, secures to those congregations the continuance of Presbyterian discipline, since, if the discipline were changed, they would cease to be *Presbyterian* congregations, and their charters would become void. Yea, more. The Legislature have, in some instances, expressly recognized the rules and discipline of the Presbyterian Church, and secured its application to congregations which they have incorporated. By an act passed Nov. 19, 1788, "Joseph Shelfe," and others, "petitioners and inhabitants of the town of Groton," were "incorporated into a separated parish or society, by the name of the Presbyterian Parish or Society in the said town of Groton, with all the privileges, powers and immunities to which other parishes in this Commonwealth are entitled by law; they, the said parish or society, making provision for and maintaining the public worship of God in the said parish or society, *according* to the Presbyterian rules and discipline."† And, June 14, 1815, "The Pastor," (in all cases settled by the concurrence of the Presbytery,) "Deacons and Elders of the first Presbyterian Church in Newburyport" were made "a body politic and corporate," by an act of the General Court.‡

The Canons of the *Protestant Episcopal Church* in the United States enjoin that, "on the election of a minister into any Church or Parish, the Vestry shall deliver, or cause to be delivered, to the Bishop, or, when there is no Bishop, to the Standing Committee of the Diocese, notice of the same," in a prescribed form. "And, *if the Bishop or Standing Committee be satisfied that the person chosen be a qualified minister of this Church*, the Bishop, or President of the Standing Committee shall"—take the prescribed measures for his institution. "But if the Bishop or the Standing Committee be not satisfied as above, he or they shall, at the instance of the parties, proceed to inquire into the sufficiency of the person so chosen, according to such rules as may be made in the respective Dioceses, and *shall confirm or reject the appointment*, as the issue of that inquiry may be."§ Here a negative on the choice of the Church or Parish is given to the Bishop or Standing Committee. Yet the General Court, have often, since the adoption of the Constitution,

* Form of Govt. of the Presbyterian Church in the U. S. A. xv. sect. 4, 9, 10.

† Private and Special Statutes of Mass. vol. i. p. 203. ‡ Vol. v. p. 78.

§ Canons of the P. E. C. in the U. S. A. Canon 29.

incorporated Episcopal societies. And, in several instances they have expressly recognized, and secured to the congregations incorporated the application of, these requisitions of the Canons of the Episcopal Church. Thus, March 7, 1791, was passed, "An act for incorporating the members of the Episcopal Church in the town of Portland into a religious Society;" the preamble to which is as follows. "Whereas a number of persons in the town of Portland, who belong to the Episcopal Church in said town, have petitioned this Court to be incorporated as a religious Society, for "the purpose of carrying on the public worship of God in said place, *according to the Episcopal form and faith*, and for other purposes," &c.* January 12, 1818, Abel D. Alleyne" and others were "incorporated as a Protestant Episcopal Society, by the name of the Episcopal Church in Dedham, with all the powers and privileges and subject to all the duties and restrictions of other religious societies, according to the constitution and laws of this Commonwealth, *and the rights and usages of the Protestant Episcopal Church in the United States.*"† January 28, 1820, "Dudley A. Tyng," and others were "incorporated as a Protestant Episcopal Society and body politic, by the name of the Proprietors of St. Paul's Church in Boston, with all the powers and privileges of other like religious societies, according to the constitution and laws of this Commonwealth, *and the rights and usages of the Protestant Episcopal Church in the United States.*"‡ June 14, 1815, "Zadock Packard" and others were incorporated "as a religious society of the Protestant Episcopal Church in the town of Bridgewater." The sixth section of the act is as follows. "Be it further enacted, that all gifts, grants, donations or legacies, of money, or of other personal estate, which are or shall hereafter be made to said corporation to or for the benefit of said Church, Society or Parish, shall be funded, unless otherwise directed by the donor or donors, and the annual interest or income thereof shall be applied to the support of *an Orthodox Clergyman of the Episcopal Church, who shall be approved by the Bishop of this Diocese, or, if the Episcopate be vacant, by the Standing Committee of the Protestant Episcopal Church in this Diocese.*"‖

The *Baptist* Churches in this commonwealth universally claim, as an unalienable right given them by the Lord Jesus Christ the head of the church, the unrestrained choice of their own pastor, commonly asking the concurrence of the congregation (not as a matter of right or necessity, but of expediency) in the choice they have made. Yet very many Baptist societies have been incorporated by the Legislature. And in at least one instance, that of the Baptist Church at Cambridge-port, the *Church itself* is incorpora-

* Private and Special Statutes, vol. i. p. 298. † Ibid, vol. v. p. 271.
‡ Private and Special Statutes, vol. v. p. 335. ‖ Ibid. p. 76.

ted, and the property vested in "Trustees, chosen, from time to time, by said *Church;*" and the trustees are directed to "apply the proceeds and income" of the property intrusted to them "to *the ministry in said church*," and to other specified purposes.*

The *Methodist* congregations in this Commonwealth have, according to their Book of Discipline, no voice in the choice of their ministers, who are appointed by the Annual Conference, which is composed exclusively of the ministers in a certain district. Yet the General Court have incorporated many Methodist societies. The Methodist Religious Society in Boston consists of the male communicants of the Methodist Church in this city. According to the act of incorporation, passed March 3, 1809, of the Trustees of this society, said Trustees are to fill their own vacancies, from persons, members of said society, nominated by "the minister having the pastoral charge of the said Methodist Religious Society," which minister is never elected by the pewholders or congregation, but is always appointed by the New England Conference; and the Trustees are directed to employ the income of the property "in such manner as will best promote the end and design of the said Methodist Religious Society."† The Methodist society in Lynn is constituted like that in Boston. Feb. 15, 1820, an act was passed authorizing that society to choose annually five Trustees, "to give deeds to pewholders, and hold, on the behalf of the said Methodist Society the lot of land whereon they have lately built a meeting-house, and such other estate real and personal as said society may determine to possess, by purchase, or any donation or legacy which may be made to said society: provided that the annual income," &c. "Provided also that *the said meeting-house shall always be free for the use of the Ministers of the Methodist Episcopal Church in the United States of America, who may, from time to time, be appointed by the Annual Conference to preach and expound the word of God in said house, to administer the government of the Church, to hold society meetings according to the rules of discipline which are or may be adopted by the General Conference of the Ministers of the said Church.*"‡

The pastors of Congregational churches and the ministers of Congregational parishes in this Commonwealth, have usually been chosen by the concurrent votes of the church and of the parish. And there have been several acts of the Legislature, passed since the adoption of the constitution, approving, confirming and requiring the continuance of this practice. Previously to 1800, the Congregational churches had, unquestionably, been accustomed to enjoy the privilege and liberty of electing their own pastors, as

* Private and Special Statutes, vol. v. p. 232.

† Private and Special Statutes, vol. iv. p. 213. ‡ Ibid, vol. v. p. 253.

the towns and parishes had been to elect their own ministers. In that year a law was passed which provides, "that the respective *churches* connected and associated in public worship with the several towns, parishes, precincts, &c. shall, at all times have, use, exercise and enjoy *all their accustomed privileges and liberties*, respecting divine worship, church order, and discipline, not repugnant to the constitution."* Feb. 26, 1802, an act was passed "to incorporate certain persons as Trustees of a fund for the support of a Congregational Minister in the town of Kingston in the County of Plymouth;" and the Trustees directed to apply the income of said fund "to pay the salary of such minister as the majority of the *church* and congregation have settled or shall settle."† June 10, 1813, were incorporated the Trustees of the ministerial fund in the town of Rowley, and the proceeds directed to be "applied for and toward the support of such Congregational minister as shall be settled by the *church* and congregation in said town."‡ Dec. 9, 1816, the Trustees of the ministerial fund in the First Parish in Cambridge were incorporated, and the income required to be appropriated in part "to pay the salary or salaries of such Congregational minister or ministers as shall be regularly ordained and settled in said parish *by the joint concurrence of the inhabitants and church thereof.*"‖ Feb. 21, 1824, was passed an act "to establish a fund for the support of the Gospel ministry in the First Parish in the town of Groton;" and the trustees to whom the fund is committed are required to pay the annual income thereof, "quarterly, to such teacher or teachers of religion as shall be regularly ordained and settled in said parish *by the joint concurrence of the inhabitants and church thereof.*"§

In all the acts which have now been referred to, the Legislature clearly recognize and confirm the right of some other person or body of persons than "the pewholders, parishioners, and others who support the minister" to have a voice in electing and settling him. Now, either the Legislatures which passed these several acts, knowingly or ignorantly, violated the constitution, and the said acts are all unconstitutional, and therefore, *ipso facto*, null and void; or the position of our author now under examination is false.

3. The third article of the Declaration of Rights provides, "that the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers." Now are any others besides towns, parishes and precincts referred to and included in this article? We maintain that *churches*, of whatever denomination,

* Mass. Stat. 1799, c. 87. † Private and Special Statutes, vol. ii. p. 90.
‡ Private and Special Statutes, vol. iv. p. 482. ‖ Ibid. vol. v. p. 161.
§ Ibid, vol. iii. p. 318.

are referred to and included. They are not indeed towns, or parishes, or precincts. But they were, at the time of the adoption of the constitution and are now, both "bodies politic" and "religious societies." The churches were considered at the time of the adoption of the constitution "bodies politic," for they are expressly called "bodies politic" in a law of 1754, which was *re-enacted* in 1786, *but a few years after the adoption of the constitution.** That they are and have ever been "religious societies" cannot be questioned. Are they not voluntary associations of professedly religious persons for purely religious purposes? And what are such associations if they are not "religious societies"? Churches may therefore be fairly included among those "bodies politic or religious societies" to which the constitution secures the right of electing their religious teachers; and *no one will venture to affirm that they were not understood by the people who adopted the constitution to be so included.* There are then other bodies besides towns, parishes and precincts, to which are secured by the constitution rights in relation to the election of religious teachers. And, consequently, the doctrine of our author now under examination is unsound.

4. There are many instances in which property has been given to churches or congregations on the express condition of its being appropriated for the continued support of a particular form of ecclesiastical organization and inculcation of a particular form of religious belief; and in some of these instances the pews in the houses of worship which have been erected, are sold on the express condition that the doctrine and discipline shall be unchanged. Thus the land and meeting-house of each of the Orthodox Congregational Churches in Park Street, Essex Street, Hanover Street and Salem Street, in this city, and of that at South Boston were conveyed to the Trustees in whom the fee is vested, on the express condition that the male members of the *church* should always elect the minister, to the end that the Orthodox faith and the Congregational discipline may be continued in the said houses to the latest generations, and the deeds of the pews in said houses expressly recognize these conditions. The land and meeting-houses of the Baptist Churches in Charles Street and in Federal Street in this city, and at Roxbury and at Lechmere Point, are conveyed in trust for said churches, on condition that the Orthodox faith and the Baptist discipline shall be maintained in said houses; and the deeds of the pews expressly provide that taxes on the pews are to be "for the support of such minister or ministers as the *church* shall from time to time elect or supply," and that *the "church"*

* We adduce here but a single proof, of the many which might be adduced, of the fact that the regularly organized churches of this Commonwealth, are "bodies politic or corporate." A more extended and very able examination of the subject may be seen in an article to be published in the second number of 'The Spirit of the Pilgrims.' We earnestly recommend that article to the careful perusal of our readers.

shall have "the right at any time, to open said house for public worship." The land on which Trinity Church in Boston stands, was given on the express condition that "a building be erected on said land, and continued and disposed as" the grantees "shall find and judge most conducing to the decent and regular performance of divine service *according to the Rubrics of the Common Prayer Book of the Church of England, and be appropriated for the said pious and most Christian use, intent and purpose, forever.*"* The land on which Christ's Church stands, we have been credibly informed, was given on a similar condition; and one of the conditions in the deeds of pews in this church is that the owner, "at all legal meetings of the Proprietors of said Church, at which he may be present, shall vote *conformably to the Canons of the Episcopal Church.*" The property of the Methodist Society in Boston was designed, by those who contributed it, for the support of the Methodist doctrine and discipline; and to that end the Trustees of said Society, we have seen, are required by their act of incorporation to appropriate it. And among the conditions in the deeds of pews in the Chapels of this Society are the following, "That the pulpit of the said Chapel shall be supplied by the Annual Conference of the Methodist Church, agreeably to their rules of church discipline; and the Methodist Society in Boston may occasionally and exclusively occupy the aforesaid Chapel for their Lovefeasts and Conference Meetings."

Now what intelligent and candid man doubts that, according to the spirit of the constitution, these conditions ought to be fulfilled, and the property thus granted to be sacredly and forever appropriated to the purpose for which it was given? But, according to the doctrine maintained in this pamphlet, whenever the majority of pewholders, in either of these houses of worship, may see fit to do so, they may violate the conditions (to which they have voluntarily consented) in the deeds of their pews, and may appropriate the property to the support of an essentially different faith and discipline from that specified in the grant by which it is held. And when a majority of the pewholders have done this, there is no redress, for they have the right to do so "without any control, let, hindrance or impediment"! Surely we need not go into an extended discussion to convince our readers that this is not the protection given to our civil rights by the constitution of Massachusetts.

And what, on these principles, becomes of our religious freedom? What is religious freedom? It is the right and privilege in every member of the community to adopt what religious opinions and attach himself to what religious denomination he pleases, and to practice what religious rites he pleases, if the practice of them does not interfere with the peace of society; and the right and

* Suffolk Registry of Deeds, Lib. xliv. fol. 137.

privilege in every religious denomination of inculcating their peculiar sentiments and maintaining their peculiar order of ecclesiastical discipline. This is clearly religious freedom; and this, there can be no question, is what the framers of the constitution meant to secure to all our citizens. But according to the doctrine of this pamphlet, the people of this Commonwealth have not secured to them any such privileges. In a Catholic, Presbyterian, Methodist, Episcopal, Baptist, or Orthodox Congregational or any other society not protected by trust deeds or some other legal and as yet undisturbed security, the Unitarians have only,—if in the large towns, to get into their hands a majority of the pews, if in the country, to certificate to that congregation till they shall constitute the majority; and, (notwithstanding the words in the constitution about religious freedom, notwithstanding any act of the Legislature appearing to secure the continuance, in the house of worship of that congregation, of a particular faith and discipline, and notwithstanding any provisions in the conveyances of their property, or of their pews,) this Unitarian majority, however obtained, may, by simply lifting up their hands, change entirely the character and denomination of the congregation, and devote all its property to the support of Unitarianism; for, says our author, the pewholders and parishioners have "the exclusive right to elect their pastors, *without any control, let, hindrance or impediment.*" Citizens of Massachusetts, descendants of the Pilgrims, is this your boasted liberty? Is this the result of all the toils and sacrifices of your fathers for the rights of conscience? Thanks be to God and to our enlightened progenitors, we find it written in the charter of our privileges, "*Every denomination* of Christians, demeaning themselves peaceably and as good subjects of the Commonwealth, *shall be equally under the protection of the law;* and no subordination of any sect or denomination to another shall ever be established by law."*

We have hitherto spoken only of the provisions of the constitution. Our author also asserts that the principle he advocates has been sanctioned by "the decisions of the highest courts of law within the State." This assertion we are sorry to say we cannot entirely deny. The Supreme Judicial Court of this Commonwealth has decided that churches have no legal rights or existence independent of the parish with which they are connected. "The only circumstance," says C. J. Parker, (Eliphalet Baker and another vs. Samuel Fales—the celebrated Dedham case,) "The only circumstance which gives a church any legal character is *its connexion with some regularly constituted society.*" "A church *cannot subsist* without some religious community to which it is attached." "As to all civil purposes, the secession of a whole

* Art. 3. of the Declaration of Rights.

church from a parish would be an *extinction* of the church; and it is competent to *the members of the parish to institute a new church*, or to engraft one upon the old stock if any of it should remain; and *this new church would succeed to all the rights of the old* in relation to the parish."* The doctrine is this, 'Every town or parish has the right to impose upon the church connected with it a pastor, even against a unanimous vote of the church. And a church, when once connected in public worship with a town or parish, cannot, but by extinction, be disconnected. It cannot, as a church, withdraw. It may become, in conscience, dissatisfied with the connexion, may vote to dissolve it, and its members, in large majority, may leave the parish; but they leave it only as individuals; the church, with its property, remains. Indeed the members may all go, and go by solemn vote; but, in this case, they die as a church; their property, *however expressly given and secured to the church*, is left to the parish; and this "is competent to institute a new church," which may be more obsequious to its wishes, and "will succeed to all the rights of the old."'† This doctrine has now, in this Commonwealth, the force of law. It has been applied to several cases, and is continually applying to new cases, in the Congregational denomination. And, *if the decision is applicable to voluntary as well as other religious societies*, we see not, why, when occasion shall offer, it must not be also applied to every other denomination. The majority in any Catholic, Methodist, Presbyterian, Baptist, or Episcopal congregation not otherwise secured than by the general provisions of the constitution regulating the choice of religious teachers, (even if that majority has been created expressly for the unhallowed purpose,) may, at any time, settle a minister contrary to the decision of the Bishop, or Conference, or of the unanimous voice of the church. This new minister may preach any sentiments, and maintain any form of ecclesiastical discipline, which this majority of the congregation may now prefer. And the property which had been given to the church, however specifically and differently appropriated, may be applied to the support of this new order of things. And the aggrieved have no redress, but to withdraw, and, if a church, to annihilate themselves, and organize anew, and make new sacrifices to obtain the enjoyment of the privileges conferred upon them by the Lord Jesus Christ; of which they may in the same manner, be, at any time, again deprived. These are the results of the application of the principles of this decision of our highest court of law. And now, we appeal to every impartial reader, and ask, whether while this decision shall continue to have the force of law, the Orthodox Congregational and the Bap-

* Term Reports, vol. xvi. p. 504.

† See the article already referred to in the second number of 'The Spirit of the Pilgrims,' which contains an extended and able examination of this decision.

tist churches, and all others who may choose to do so, are not fully justified in resorting to trust deeds, or any other lawful expedient, for the purpose of securing their natural, constitutional and unalienable rights? We ask again, where, in the Protestant world, are the churches of our Lord Jesus Christ in such a state of absolute civil dependence and vassalage as in Massachusetts, the continuance of their privileges and of their very existence being made wholly dependent upon the will of a majority of an ever changing secular and civil society? And we ask again, will this state of things be endured by the people of this Commonwealth, when the subject is generally understood? We know it will not be endured. And we call upon all who do understand it, and who feel the value of those inestimable civil and religious privileges which the God of heaven has conferred upon us, and our pious and enlightened fathers have bequeathed to us, to spare no pains or expense and to omit no exertions to make this subject universally understood. We shall doubtless hear a loud outcry about bigotry, and priestcraft, and thirst for civil power, and interference with the liberty of conscience and of thought. But none of these things will move us. We wish for no restraints upon any man's liberty of conscience and of thought. We have no desire for civil power; we should mourn and weep to see the day when politics should be made subservient to the promotion of our views of religion. No; we only want our rights, our natural, constitutional and unalienable rights. And these we must have; not by the exertion of physical force, not by any secret management; but, by the sure influence, in such a community as this, of open, fearless and candid discussion, and by the blessing of Almighty God. And we would seriously propose it to Unitarians, whether it is not expedient for them to unite their influence with ours in the attempt to obtain the restoration of our rights? Is it wise, is it safe, for them to push forward the application of these unheard of principles, and run the hazard of the fearful retribution which they will by and by bring upon themselves from an abused and oppressed community?

In what way redress is to be obtained we shall not presume to decide. Either the decisions of the Court must be reversed, or the existing provisions, compelling the support of public worship by towns, parishes and religious societies, must be repealed, and the support of public worship be left entirely to the voluntary provision of the people, all being alike protected in associating and vesting their property for the support of whatever faith and discipline they may prefer. The former is the simplest and readiest method, and we do not wholly despair of its being yet adopted. If it is not, let the other be taken. This would now, we are inclined to think, satisfy the various Orthodox denominations. And why should it be objected to by the Unitarians? It would place them on an equal footing with other denominations, and leave their

cause to stand upon its own merits. But their leaders, we have no expectation, will ever be willing that it should stand thus; for they know full well that, so inefficient is their system, that, if it were deprived of the support, where it has obtained the ascendancy, of the legal provisions for the maintenance of public worship, there would not, in a few years, be a Unitarian congregation out of the large towns.

In all these remarks upon the second argument of the pamphlet before us, we have gone upon the supposition that our author's principle, and the decisions of the Court in relation to it, apply alike to all parishes and congregations in the State. And this we hope it will be remembered, is our author's view of the subject, and the view hitherto generally maintained by Unitarians. But it may be maintained, (and this is, perhaps, the correct view of the subject,) that the decision of the Court applies only to those towns and parishes which are required by law to make provision for the support and maintenance of a religious teacher, and does not refer to parishes and congregations in which "such provision shall be voluntarily made."* If so, then, neither our author's interpretation of the third paragraph of the third article of the Declaration of Rights, nor the decision of the Court which he has adduced as confirming his interpretation, is applicable to the congregation worshipping in the Hanover Street Church, since that is one of the parishes in which voluntary provision is made for the support of a religious teacher. And thus this boasted argument falls to the ground.

The third argument of our author is thus stated.

"The third objection against the provisions of this instrument is, that they are a direct contradiction to all their *past* professions. They have avowed that all they aimed at was the restoration of the rights of the church to their concurrent right of election." And the proof he gives that such were the *past* professions of the Orthodox, is several quotations from the Result of the late Council at Groton, written by Dr. Beecher, in which is claimed for the churches referred to the concurrent right of election.

This was felt by our author to be a triumphant argument, and he has urged it with much vehement eloquence through nine pages. But, most unfortunately, he has entirely overlooked two important facts. First. Dr. Beecher speaks in the Groton Result exclusively of churches connected with towns or parishes *compelled by law* to support a minister, and not at all of voluntary associations for this purpose like the churches and congregations worshipping in the meeting-houses in this city, the fee of which is vested in trustees. In relation to these, he has on the subject in question, expressed no opinion in the Groton Result. Of course the quo-

* Declaration of Rights, Art. 3.

tations from that Result by our author *do not apply to the subject of discussion.* And, secondly, the expedient of trust deeds was adopted in 1809, that of the Hanover Church was executed in 1825; but the Groton Result was written in 1826. That Result is not therefore, and cannot be, what it is quoted by our author as being, an expression of the "*past* professions of the Orthodox," i. e. of their professions previous to their adoption of the expedient of trust deeds.

We now come to the author's fourth and last inquiry. It is this.

"Has not a man, or a body of men a right to found a church for the maintenance of any religious opinions, and impose what restraints he or they please? To be sure they have; a man may found a mosque, a synagogue, or even a temple to Juggernaut. He may provide for what mode of worship he pleases, provided it is not revolting to public feeling. He could not oblige a wife to throw herself on the funeral pile of her husband, nor prescribe, that worshippers should be crushed under the wheels of the Idol's car. In such a case the laws would interfere. But we do not perceive that Messrs. Tappan and Walley, the parties of the first part, were the FOUNDERS of this church, nor that they had any moral or equitable right to impose such restraints on a society of which they were *not members*—I avoid touching the legal question. I presume that Messrs. Tappan and Walley were not the founders, because it is provided, I learn, that if the trust from any cause fails, the property is to enure to the benefit of the *pewholders*. I infer it, also, from a clause which prohibits the pewholders from suing for partition, which would not be necessary, if they were not the *owners*. If this be so, the proprietors of pews in Hanover Street Church are morally and equitably as much the owners of that church as the pewholders of other societies are respectively of their churches. No valuable consideration ever passed from Mr. Tappan and Mr. Walley, or from the trustees of sister churches, parties of the second part, to the proprietors of the pews for the surrender of their perfect rights over this edifice." pp. 22, 23.

In this reasoning, it is presumed, it is the object of the author, in asserting that Messrs. Tappan and Walley are not the founders of the Hanover Street Church, to maintain that the proprietors of pews in said church are the owners in fee of the land on which the house is erected,—a position taken, it would seem, for the benefit of *future dissentients*, and for the purpose of *present excitement* among those whom he supposes to be halting between two opinions.

We have now, it is manifest, come to a question of property; and, as such, it is strictly a legal question,—embracing in this term legal rights of property as recognized and protected by courts of law and equity. Yet the profound and candid author avows, "I avoid touching the legal question." Does he so? What then does he touch? Will he reply, 'the *moral rights* of the pewproprietors'? A convenient term indeed;—but in what, pray, does

the moral right to property differ from the legal right? He might reply, 'If *William Price* were living, he could answer the question.'*

But is it true that the author avoids, as he professes to do, the legal question? Let his positions be examined. To prove that Messrs. Tappan and Walley are not the founders of the Hanover Street Church, he asserts,

1. They are "*not members*" of the society upon which they are imposing certain restraints.

2. "It is provided that if the trust, from any cause, fails, the property is to enure to the benefit of the pewholders."

3. There is "a clause which prohibits the pewholders from suing for partition, which would not be necessary if they were not owners." And, as a legal inference from this position, or, if he chooses, from this and the preceding positions, he adds, "the proprietors of pews in Hanover Street Church are morally and equitably as much the owners of that church as the pewholders of other societies are, respectively, of their churches."

4. "No valuable consideration ever passed from Mr. Tappan, and Mr. Walley, or from the trustees of sister churches, parties of the second part, to the proprietors of the pews, for the surrender of their perfect rights over this edifice."

As to the leading position that Messrs. Tappan and Walley are *not members of* the society, let it be first ascertained *of what society* the author speaks. There are but two bodies to which this term can apply, viz. the members of the church, and the pewproprietors. That he does not mean the society composed of the church members is obvious, for, so far from having any disposition to defend their rights, the whole scope of his pamphlet is to attack the church as an anti-christian association. It must, therefore, be the society of pewproprietors of which he speaks. If then Messrs. Tappan and Walley were pewproprietors, they were members of the society; and the argument of the writer, so far as founded on this assumption, would fail.

The second position is that they are "not the founders because it is provided that if the trust, from any cause, fails, the property is to enure to the benefit of the pewholders." But this is a clear *non-sequitur*, for it is a thing of every day's occurrence that, on the termination of a trust, the property, by the original provision of the donor, either reverts to his heirs, or passes to some other person or body to whom the same is limited. For example, suppose the venerable Hollis had made it one of his statutes when he founded the Orthodox professorship of divinity in Harvard University, that if, at any time, the professor on his foundation should become a Universalist, the property given by him should enure to the benefit of the Rector and Wardens of King's Chapel in Boston, for the

* The founder of the Price Lectures in the Stone Chapel.

maintenance of a lecture in that Church for the defence of the Orthodox faith; would that prove that Mr. Hollis did not found the professorship?

The third position is that the "clause which prohibits the pewholders from suing for partition would not be necessary if they were not the owners." And here, if the fact is as stated, it must be confessed, our author has reason; for, though it might be said that pewholders in Boston, as such, are not the owners of real estate, but their interest is merely personal, and, at common law, personal property is not the subject of partition, yet, as the provision in the deed relates to the real estate, the answer would be insufficient; and it is agreed, as a common principle, that those in whom the fee resides may divide, unless prohibited by covenant. And it would follow, on the other hand, that if the clause referred to, instead of restraining the pewholders, had restrained the trustees from partition, then the trustees would be the owners of the real estate, and not the pewholders; and consequently, upon such a state of things, the inference that "the proprietors of pews in Hanover Street Church are morally and equitably as much the owners of that church as the pewholders of other societies are, respectively, of their churches," would be both unsound and inapplicable.

The fourth position is that "no valuable consideration ever passed from Mr. Tappan and Mr. Walley, or from the trustees of sister churches, parties of the second part, to the proprietors of pews for the surrender of their perfect rights over this edifice." On this assumption it may be asked, if no valuable consideration passed to them from Messrs. Tappan and Walley, or from the trustees, what did pass? Surely nothing. And if the proprietors of pews had a *perfect right* over the edifice, and no valuable consideration ever passed to them from Messrs. Tappan and Walley, or from the trustees, then what have they surrendered? Surely nothing. For they are not parties to the trust deed.

It may then be safely said that, with the exception of the third position, the legal argument in the case is untenable. And in truth, the author thinks so himself, for he says, "I avoid touching the legal question;" or, to paraphrase this declaration, 'To you, my readers, who are lawyers, you know very well, I make no legal argument. But to you, my newly acquired friends of the multitude, to your unlearned ears, I address this argument, an argument well intended *ad captandum vulgus*. With you it will no doubt have the appearance of sound law; and thus I, and other leading Unitarians, will be furnished with a popular string on which to pull, to serve a present turn.'

The author says, "I avoid the legal question." And well he may, for he cannot meet it. And he has carefully avoided ano-

ther troublesome thing—*the fact*. Every legal proposition involves in it the statement of a fact. Let us look then at the statements on which our author grounds his propositions, and contemplate some of the further evidence furnished by this pamphlet of the reliance that may be placed on his accuracy.

1. It is assumed as a fact "that Messrs. Tappan and Walley, the parties of the first part, were not members of the society." But they were pewproprietors. And every pewproprietor, the author must concede, is a member of the society. Therefore Messrs. Tappan and Walley *were* members.

2. It is expressly asserted as a fact that "the pewholders are prohibited from suing for partition." *But there is no such clause in the deed.* It is *the Trustees*, the party of the second part, who are thus prohibited, because they became seized in fee as joint tenants of the estate.

3. It is asserted as a fact that "no valuable consideration ever passed from Mr. Tappan and Mr. Walley, or from the trustees of sister churches, parties of the second part, to the proprietors of the pews for the surrender of their perfect rights." But Messrs. Tappan and Walley were the owners in fee of the estate; they purchased it, and gave their bond and note for a portion of the purchase money, on which a credit was obtained; and the parties of the second part aided them in erecting the house. Instead, therefore, of *a surrender of perfect rights* on the part of the pewproprietors, they *never had any rights as pewproprietors* until they acquired them under the very trust deed itself.

Let it be remembered, then, that this anonymous author, who *professes* to disavow and despise malicious and dishonorable motives, and affects to have the most noble purposes, does not hesitate,—not only to make assertions the truth of which he did not know, and which are false in fact, but he unblushingly asserts as a substantial fact that the trust deed contains a provision,—*upon which his argument depends*,—when no such provision is contained in the deed. Whence has arisen such a glaring departure from that principle of *moral* right called truth? Was it from an overheated and fiery zeal, which is regardless of assertions in its eagerness to gain its object? Or was it from the adoption of the maxim that the end justifies the means? Or was it from ignorance resulting from neglect to examine the foundations on which he has grounded the heavy charges in this pamphlet against, a large class of the community whom he calls his "Protestant brethren," and "acknowledges as Christians." The author may choose which position he pleases; it will prove but a change of posture on a bed of thorns.

The truth then is that Messrs. Tappan and Walley *were* in the eye of the law, and they and their associates were in fact, *the founders* of the Hanover Street Church. And this being the fact,

we have our author's own authority that there is, in the provisions of the foundation, no violation of the rights of any one, and consequently that all his anger and zeal have been expended in vain; for he expressly says, "Has not a man, or body of men, a right to found a church for the maintenance of any religious opinions, and impose what restraints he or they please? TO BE SURE THEY HAVE."

We now recur again to the question of constitutionality. The author has stigmatized this trust deed as an attempt to defeat the express provisions of our constitution in relation to religious freedom. The reasoning by which he supposed he had established this charge has been examined, and found to be entirely fallacious. We now advance a step further on this ground. A constitutional provision is necessarily a legal provision. If any question arises, therefore, on this subject, it can only be a legal one. Before, then, we recur again to the constitution on this point, let us briefly state the facts of the case under examination. A few gentlemen attached to the Orthodox faith, are desirous of erecting a house in which they and their associates, or some of them, may worship God according to the dictates of their own consciences and the directions of his holy word; and are also desirous of securing to their children, whom they are bound to bring up in the nurture and admonition of the Lord, and to their friends who may join them, the privileges which they enjoy themselves. For this purpose some of their number purchase a piece of land, and erect a building thereon, and, being the sole owners, they determine the manner in which shall be secured the preaching of the Gospel according to the faith of our fathers, the founders of all our ancient churches. The object they sincerely believe is an honest one; and, to secure this use *of their own property*, they make a deed to trustees,—a mode of conveyance in general practice. In other words, the parties of the first part, in whom was the fee of the estate, were, with their associates, in legal language, THE FOUNDERS of this Church; and, to secure the property to the use designed, they convey the legal estate to certain persons in fee, in trust, to enable them to control the property in such a manner that the intent of the founders may not be defeated. Every purchaser of a pew buys subject to this provision, which is embraced in his deed. Such are the facts in the case, as they are embodied in the trust deed; and they are branded as "a palpable, plain, undisguised attempt, by legal instruments, to defeat the express provisions of our constitution, upon the subject matter of these instruments." If such is the attempt, let the parchments be scattered to the winds, and the authors of them covered with disgrace. On the other hand, if this is a base calumny, let the rights of the founders of this house stand, unshaken, on the platform of the constitution. And let it be known and felt by every one who regards the liberty of conscience

as his dearest privilege, that the man who attempts to destroy this deed, on the ground that it is unconstitutional, aims a blow at the essential rights of the citizens of this free and independent State.

What says the Constitution, the great Trust Deed of our liberties. Hear its language. "Among the natural, essential and *unalienable* rights of the people, are those of acquiring, possessing and *protecting* property." And further, "It is the right as well as the duty, of all men in society, publicly, and at stated seasons, to worship the Supreme Being, the Great Creator and Preserver of the universe. And no subject shall be hurt, molested or restrained, in his person, liberty, or estate, for worshipping God in the manner and seasons most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship." And, "as the happiness of a people, and the good order and preservation of civil government essentially depend on piety, religion and morality; and as these cannot be generally diffused through the community, but by the institution of a public worship of God, and of public instruction in piety, religion and morality;—therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this Commonwealth have a right to invest their Legislature with power to authorise and require, and the Legislature shall, from time to time, authorise and require the several towns, parishes, precincts, and other bodies politic or religious societies, to make suitable provision, at their own expense, for the institution of public worship, and for the support and maintenance of public Protestant teachers of piety, religion and morality, in all cases WHERE SUCH PROVISION SHALL NOT BE MADE VOLUNTARILY."*

It is then the constitutional right of any number of citizens to make *a voluntary provision* for the institution of the public worship of God, and for the support and maintenance of a public Protestant teacher of piety, religion and morality, *according to their religious profession or sentiments*, as shall be most agreeable to *the dictates of their own consciences, without molestation* in person or estate, provided they do not thereby disturb the public peace or obstruct others in their religious worship, and to be *protected* in devoting a portion of their property to this pious use. On this constitutional provision rests securely the trust deed of the founders of the Hanover Street Society, and of all the other religious societies organized in a similar manner; on this constitutional provision stand their several houses of worship; and upon the foundation of the Apostles and Prophets, Jesus Christ himself being the chief corner-stone, are built the churches which occupy those houses; and no weapon formed against them shall prosper.

* Declaration of Rights, Art. 1 and 2.

And now a word respecting our author's concluding paragraph. He seems to have felt that he had justly exposed himself to the charge of impertinence in meddling with concerns which did not belong to him; and, as the easiest way of meeting the charge, he chose to forestall it by inquiring of himself, "What right have you to interfere with the concerns of this church?" And what is his answer? "I have at least as good a right to plead the cause of the future dissentients and to vindicate their gospel rights as Messrs. Tappan and others had to deprive them of them." But, on the preceding page, he had asserted that Messrs. Tappan and others *had no right* to do what is here charged upon them. Himself being judge, then, he had no right to interfere with the concerns of this church.

But who are these "future dissentients"? Why, they are the children of the Orthodox owners of the pews in the Hanover Street Church. "They inherit the pew, and have never assented to such a surrender of their personal rights." p. 21. Does he mean, then, to say, that a parent must consult his child as to the disposition of his property, before such disposition is legal? He knows better. He well knows a man may do what he pleases with his own, even if it be building theatres, or distilleries. The child must take the property as the father leaves it.

The author, it seems, "despises and disavows such motives of action" as he attributes to the Orthodox. He has, he says, "nobler purposes." He has been taught by "an illustrious Roman, (once a slave,)" that "nothing which touches human nature is foreign to" him. That he is learned in the Roman and Grecian schools we do not doubt. We would, at parting, commend to his attention another school, and a more illustrious Master, who, while on earth, spake an instructive parable to "*certain which trusted in themselves that they were righteous, and despised others.*" And may the issue be such a change of mind as will prompt him, in humility and faith, to put up the prayer, "*God be merciful to me a sinner.*"

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